

APR 27 2015

Zoning Evaluation Division

**Proffers**

**Ausable, LLC**

**RZ 2013-PR-014**

**December 10, 2014**

**February 18, 2015**

**March 23, 2015**

**April 7, 2015**

**April 13, 2015**

**April 15, 2015**

**April 20, 2015**

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Owners and Applicant, in this rezoning proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Map as Tax Map Reference 48-4((1))44 (hereinafter referred to as the "Property") will be in accordance with the following conditions (the "Proffered Conditions"), if and only if, said rezoning request for the R-5 Zoning District is granted. In the event said rezoning request is denied, these Proffered Conditions shall be null and void. The Owners and the Applicant, for themselves, their successors and assigns hereby agree that these Proffered Conditions shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures. The Proffered Conditions are:

**I. GENERAL**

1. Substantial Conformance. Subject to the provisions of Section 18-204 of the Fairfax County Zoning Ordinance (hereinafter referred to as the "Zoning Ordinance"), development of the Property shall be in substantial conformance with the Generalized Development Plan (GDP), prepared by Land Design Consultants consisting of eleven sheets, dated July 2013, some revised through March 23, 2015.
2. Maximum Lot Yield. The development shall consist of a maximum of 14 single family detached units equating to a density of 3.76 dwelling units per acre, inclusive of all open space and density credits.
3. Minor Modifications. Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications to the GDP may be permitted as determined by the Zoning Administrator. The Applicant reserves the right to make minor adjustments to the internal lots or house locations at the time of site plan submission provided that the amount of open space, tree save, limits of clearing and grading, or distances to peripheral lot lines as shown on the GDP are maintained, and provided that the adjustments are deemed in substantial conformance with the GDP by Fairfax County.

4. Establishment of HOA. Prior to record plat approval, the Applicant shall provide the Department of Public Works and Environmental Services (DPWES) with documentation that the Applicant has established a Homeowners Association (HOA) in accordance with Sect. 2-700 of the Zoning Ordinance. The purpose of the HOA shall be, among other things, establishing the necessary residential covenants governing the use and operation of common open space and other facilities of the approved development, maintenance of the SWM/BMP facilities and noise barriers, and to provide a mechanism for ensuring the ability to complete the maintenance obligations and other provisions noted in these proffer conditions, including an estimated budget for such common maintenance items.
5. Disclosure. Prior to entering into a contract of sale, prospective purchasers shall be notified in writing by the Applicant of the maintenance responsibility for the private roadways, walkways, stormwater management facilities, noise barriers, common area landscaping and any other open space amenities and shall acknowledge receipt of this information in writing. Additionally, through the same means, the prospective purchasers shall be informed about the fact that the lots have a minimum required rear yard of 25 feet and the ability to add any building additions or decks on the rear of the dwelling may be affected by this required setback. The initial deeds of conveyance and HOA governing documents shall expressly contain these disclosures.
6. Signs. No temporary signs (including "popsicle" style paper or cardboard signs), which are prohibited by Article 12 of the Zoning Ordinance and Chapter 7 of Title 33.1, and Chapter 8 of Title 46.2 of the Code of Virginia, shall be placed on or offsite by the Applicant or at the Applicant's direction. The Applicant shall direct its agents and employees involved with the Property to adhere to this proffer.
7. Architectural Design. The exterior architectural design of the units shall be in substantial conformance with the quality of the elevations shown on the GDP. Specifically, the exterior facades shall include the use of varied roof lines, paneled or board and batten shutters, window headers, and windowed garage doors, consistent with that shown on the GDP. The primary material of the exterior facades, exclusive of trim, gutters, downspouts, and windows, shall be brick, stone, Hardie Plank, Hardie Panel, Hardie Board or other cementitious material. No vinyl or wood siding shall be used on the building facades. Units shall vary in color in muted tones of blue, green, brown, beige or other muted earthtones. The facades of the dwellings on Lots 1, 3, 11, and 14 facing Arlington Boulevard shall be constructed of materials that are of a proportional quality to those used on the front façade, including similar decorative elements and window treatments. The architectural elevations may be refined as a result of final design and engineering provided the quality of the buildings remains in substantial conformance with those shown on the GDP and the materials as stated in this proffer.
8. Construction Hours. Outdoor construction of the Proposed Development shall take place only during the hours between 7:00 a.m. and 7:00 p.m. Monday through Friday and between the hours of 7:00 a.m. and 6:00 p.m. on Saturday. There will be no outdoor construction on New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial

Day, the Fourth of July, Labor Day, Thanksgiving and Christmas Day. The permitted hours of construction shall be posted on-site in both English and Spanish.

## II. TRANSPORTATION

9. Service Drive. The Applicant shall construct a service drive across a portion of the frontage as shown on the GDP. The service drive includes curb and gutter on the south side and curb on the north side, a 5-foot wide sidewalk along the south side with a 3-foot buffer from back of curb to sidewalk and a 1-foot buffer between the sidewalk and the revised property line as well as a branch-type turnaround, as shown on the GDP, subject to approval by the Virginia Department of Transportation (VDOT). The 5-foot wide sidewalk shall connect with the service drive sidewalk to the west and to internal sidewalks. Until the service drive is accepted by VDOT into the state maintenance system, the Applicant shall maintain the service drive and sidewalk. Once accepted into the system for state maintenance, a sign shall be erected at the connection of the service drive to the development's private street delineating where the state maintenance ends. If approved by VDOT, the Applicant shall also install no parking signs along the service drive.
10. Improvements at Arlington Boulevard (Rt. 50) and Service Drive. The Applicant shall construct improvements as shown on the GDP, including the relocation of the mast arm traffic signal pole, guardrail relocation, stop signs and stop bars on the service drive, traffic control boxes, traffic signal loops and median adjustment for the pedestrian crosswalk.. The final design and location of these improvements shall, to the extent possible, accommodate the future third lane construction on Arlington Boulevard (Rt. 50) and are subject to approval by VDOT.
11. Pedestrian Signal. With relocation of the signal pole, the Applicant shall install a pedestrian signal for crossing Arlington Boulevard (Rt. 50). The Applicant shall also install VDOT standard high visibility markings, ADA compliant ramps, and refuge areas for this crossing, as shown on the GDP, subject to VDOT approval.
12. Bus Shelter. The Applicant shall install a bus shelter on the north side of Route 50, in the westbound direction, with a 5 foot wide sidewalk as shown on the GDP, subject to approval by VDOT. The design of the bus pad and shelter shall meet Fairfax County's Bus Stop Guidelines.
13. VDOT Approval. All proffered public roadway improvements shall be subject to VDOT approval.
14. Right-of-Way Dedication along Arlington Boulevard. At the time of site plan approval, or upon demand by Fairfax County or VDOT, whichever occurs first, the Applicant shall dedicate, at no cost to Fairfax County and in fee simple, without encumbrances except for that certain easement to Virginia Electric Power Company recorded in the Fairfax County Land Records at Deed Book 447, Page 83 and any overhead utility lines or utility poles located in this easement (herein referred to as "the VEPCO easement") to the Board of

Supervisors, right-of-way along the site frontage of Arlington Boulevard 104 feet from the centerline and any associated ancillary easements, as shown on the GDP. Density credit is reserved consistent with the provisions of the Fairfax County Zoning Ordinance for all eligible dedications described herein or as may be required by Fairfax County or VDOT.

15. Public Access Easement. At the time of plat recordation, the Applicant shall cause to be recorded among the land records a public access easement running to the benefit of Fairfax County, in a form acceptable to the County Attorney, over the private road and sidewalks as generally shown on the GDP, subject to approval by DPWES.
16. Private Streets. The on-site private street shall be constructed in conformance with the Public Facilities Manual (PFM) and shall be constructed of materials and depth of pavement consistent with the PFM, subject to any design modifications as to pavement and easement width and use of curb, that are approved by the Director of DPWES. The Homeowners' Association shall be responsible for the maintenance of the on-site private street. All prospective purchasers shall be advised of this maintenance obligation prior to entering into a contract of sale and said obligation will be disclosed in the HOA documents.
17. Use of Garages, Driveways and Common Area Parking Spaces
  - A. Any conversion of garages or use of garages that precludes the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the HOA and the Board of Supervisors. This restriction shall also be disclosed in the HOA documents. Prospective purchasers shall be advised of this use restriction, in writing, prior to entering into a contract of sale.
  - B. No parking of recreational vehicles (RVs), boats or trailers shall be permitted on the private streets or shared driveways. This restriction shall be included in the homeowner's association documents prepared for the Application Property.
  - C. In order to encourage the efficient use of garage space, an exhibit depicting the most efficient use of the garage space shall be included in the sales documents and as part of the homeowners association documents. The exhibit shall delineate, with dimensions, the parking of two SUV/mini-van size vehicles along with how storage areas can be accommodated within the garage.
  - D. Owners shall be advised of the above use restrictions which shall be included in the initial lease/sales documents.
  - E. All driveways shall be a minimum of twenty feet (20') in length as measured outward from the face of the garage door to the face of curb.

### III. ENVIRONMENTAL

18. Noise. Noise attenuation measures shall be incorporated into the development so as to achieve an interior noise level of no greater than DNL 45 dBA and an exterior noise level for outdoor areas, including decks, within lots at or below DNL 65 dBA. The applicant shall provide a refined acoustical analysis at the time of site plan submission which includes final grading and design and which incorporates the potential impact of a third eastbound lane on Arlington Boulevard (Rt. 50). Any acoustical analysis and noise attenuation measures shall be subject to the review and approval of the Environmental and Development Review Branch of the Department of Planning and Zoning (DPZ) and DPWES at the time of site plan. For dwelling units anticipated by the study to be affected by highway noise levels projected to be between 65 and 70 dBA Ldn, those dwellings shall be constructed to meet the following building material standards:

- Exterior walls should have a laboratory sound transmission class (STC) rating of at least 39. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels of 65 to 70 dBA Ldn.
- If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of up to 39 as dictated by the percent of glass.
- All surfaces should be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.
- In order to achieve a maximum exterior noise level of 65 dBA Ldn, a six foot high acoustic barrier, solid with no gaps and flush to the ground (to be constructed of low maintenance, durable materials such as brick, masonry or synthetic board material and shall contain vertical elements such as brick piers as shown on Attachment 1) shall be provided in the location shown on the GDP. In addition, the same acoustic barrier shall extend along the rear lot lines of Lots 1 and 2 and Lots 12 through 14. The HOA shall be responsible for the maintenance of the acoustic barrier.

The Applicant reserves the right to pursue methods other than those above for mitigating highway noise impacts that can be demonstrated prior to the filing of a building permit, through an independent noise study as reviewed and approved by DPWES and the DPZ, provided that these methods will be effective in reducing interior noise levels to approximately 45 dBA Ldn, and exterior noise within outdoor recreation areas to approximately 65 dBA Ldn.

19. Resource Protection Area and Environmental Quality Corridor Restoration Plan. All areas of the EQC shall be restored in accordance with notes on sheets 6 and 7 of the GDP. This restoration plan shall be reviewed and approved by Urban Forestry Management Division (UFMD) and Fairfax County Park Authority (FCPA). A component of the restoration plan shall be an Invasive Species Management Plan which shall also be reviewed and approved by UFMD, Natural Resource Management and Protection (NRMP) and FCPA. The invasive species management plan, developed by a

VA certified pesticide applicator, shall include but not be limited to the following information:

- Identify targeted undesirable and invasive plant species to be suppressed and managed.
- Targeted area of undesirable and invasive plant management plan shall be clearly identified on the landscape or tree preservation plan.
- Removal of undesirable and invasive plant species shall be conducted in accordance with the notes on Sheet 8 of the GDP which differentiates two different areas: one where mechanical means may be utilized and the other where hand tools or other hand methods shall be utilized. The specific type of removal method shall be specified on the invasive species management plan.
- Identify potential impacts of recommended method(s) on surrounding trees and vegetation not targeted for suppression/management and identify how these trees and vegetation will be protected (for example, if mechanical equipment is proposed in save area, what will be the impacts to trees identified for preservation and how will these impacts be reduced).
- Identify how targeted species will be disposed.
- If chemical control is recommended, treatments shall be performed by or under direct supervision of a Virginia Certified Pesticide Applicator or Registered Technician and under the general supervision of Project Arborist). Monitoring and treatment visits shall extend two years from the first treatment.
- Provide information regarding timing of treatments, (hand removal, mechanical equipment or chemical treatments) when will treatments begin and end during a season and proposed frequency of treatments per season. All invasive species should be removed following the guidelines of: Miller, James H.; Manning, Steven T.; Enloe, Stephen F. 2010. A management guide for invasive plants in southern forests. Gen. Tech. Rep. SRS-131. Asheville, NC: U.S. Department of Agriculture Forest Service, Southern Research Station. 120 p.
- Provide monthly monitoring reports during removal time period to UFMD staff.
- The duration of management program shall be until the earlier to occur of (i) Bond release or (ii) release of Conservation Deposit, provided however that program may end sooner if targeted plant(s) appear to be eliminated based on documentation provided by Project Arborist and an inspection by UFMD and FCPA staff.

20. Removal of Existing Fill. At the time that a subdivision plan is submitted for review for the development of the project, the Applicant shall also submit a grading plan to remove the existing, unapproved fill located on Parcel B and within the floodplain for approval by DPWES. After DPWES approves the grading plan and prior to the issuance of the first building permit for this project, the Applicant shall remove the existing, unapproved fill located on Parcel B and within the floodplain and complete all actions, including ensuring stabilization of the graded area, in accordance with the approved grading plan.
21. Park Authority Dedication. Prior to bond release, the Applicant shall dedicate Parcel B, as shown on the GDP, to the Fairfax County Park Authority in fee simple with no monetary encumbrances. Prior to dedication of Parcel B, the Applicant shall remove

waste and debris, perform the restoration work as shown on the GDP and described in Proffer 19 above, remove existing fill, install any improvements or landscaping enhancements in accordance with the GDP, and cause to be dedicated any additional right-of-way from Parcel B necessary for improvements along the Rt. 50 frontage as requested by VDOT. The Applicant shall reserve any density credit associated with this dedication. If FCPA declines to accept Parcel B as described in this proffer, then Parcel B shall be conveyed to HOA, shall be designated as open space on the final site plan, shall be maintained by the HOA and shall not be utilized to support or be a part of future land use applications on adjacent property.

22. Energy Conservation. In support of energy conservation and green building techniques; the Applicant, in consultation with the Environment and Development Review Branch (EDRB) of Department of Planning and Zoning (DPZ), shall seek certification for this development from one of the following programs that offers third party review of "green building" or energy efficient measures. The Applicant shall have sole discretion to choose the program that will be utilized.
- A. Certification in accordance with the Earth Craft House Program as demonstrated through documentation provided to DPWES and EDRB prior to the issuance of a RUP; or
  - B. Certification in accordance with the National Green Building Standard (NGBS) using the ENERGY STAR® Qualified Homes path for energy performance, as demonstrated through documentation submitted to DPWES and EDRB from a home energy rater certified through Home Innovation Research Labs that demonstrates that the dwelling unit has attained the certification prior to the issuance of the RUP for each dwelling; or
  - C. Certification in accordance with the National Association of Home Builders (NAHB) National Green Building Program, Bronze level, as demonstrated through submission of a copy of the "Green Certificate" issued by NAHB in accordance with its "Green Certificate Program" prior to the issuance of the RUP for each dwelling.
23. Landscaping. At the time of subdivision plan or site plan review, as required, the Applicant shall submit to DPWES a landscape plan showing landscaping consistent with the quality, quantity and general location shown on the Landscape Plan on the GDP and as required by Proffer 24. This plan shall be subject to review and approval of Urban Forestry Management (UFMD), DPWES. At the time of planting, the minimum caliper for deciduous trees shall be three (3) inches and the minimum height for evergreen trees shall be six (6) feet. Actual types and species of vegetation shall be determined pursuant to more detailed landscape plans submitted at the time of submission of the subdivision plans for review and approval by the UFMD at the time of subdivision plan approval. However, all plant material installed on the Property shall be non-invasive. Such landscape plans shall provide tree coverage and species diversity consistent with the PFM criteria, as determined by the Urban Forester. The Applicant reserves the right to make

minor modifications to such landscaping to reasonably accommodate utilities and other design considerations, provided such relocated landscaping shall retain a generally equivalent number of plantings as shown on the approved GDP.

24. Supplemental Landscaping and Screening. In addition to the landscaping and tree preservation generally described on the GDP, along the common boundary with the Chesterfield Mews community, the landscape plan approved as part of the subdivision review process shall further incorporate the supplemental landscaping and tree preservation concepts described in Attachment 1 to these proffered conditions. The approved landscape plan shall further provide for the reasonable removal of existing bamboo and other non-contributing undergrowth along this common property line. All plantings and required horticultural work shall be performed in accordance with standard and accepted horticultural practices. Any off site plantings, or associated offsite removal of invasive species, shall be further subject to the Applicant obtaining the appropriate permission from the off-site owner(s). The Applicant shall have no responsibility for the maintenance or survivability of any off site plantings beyond the warranty offered by the installing landscape company. In addition to this supplemental landscaping, as also generally described in Attachment 1, the existing fence along the common property line with Chesterfield Mews shall be replaced with a new continuous six foot high, synthetic, dark brown colored board fence with no gates or openings extending from the NW corner of Lot 1 to the SE corner of Lot 12.
25. Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP, subject to allowances specified in Proffer 28 and for the installation of utilities, trails or excavation of existing material required to restore the topography to the condition reflected in the Board adopted floodplain study as determined necessary by the Director of DPWES, as described herein. If it is determined by the Director that such an excavation is required, the optional expanded limits of clearing and grading shall be utilized. In addition, if it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the GDP, they shall be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD and FCPA for all disturbances in accordance with all applicable requirements. Any trees impacted within the limits of clearing and grading as specified above shall be replaced on the site as determined by UFMD and the Chesapeake Bay Preservation Ordinance. Notwithstanding the Tree Preservation Target Statement and Calculation shown on Sheet 4 of the GDP, the Applicant reserves the right to request a deviation of the tree preservation target to be reviewed and approved by UFMD at the time of site plan review. Such deviation shall be the minimum necessary to accommodate the excavation of material as described above.
26. Tree Preservation. The applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent site plan submissions. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist, and shall be subject to the review and approval of the Urban Forest Management Division, DPWES.



The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved, as well as all on and off-site trees, living or dead with trunks 10 inches in diameter and greater (measured at 4 ½ -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 25 feet to either side of the proposed limits of clearing and grading. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the GDP and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0507 and 12-0509. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, determined by the certified arborist shall be included in the plan.

27. Tree Preservation Walk-Through. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree-preservation walk-through meeting, the Applicant's certified arborist or landscape architect or designated representative shall walk the limits of clearing and grading with an UFMD, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation, increasing the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions. The Applicant shall notify the Providence District Supervisor no less than ten (10) days in advance of the Tree Preservation Walk-Through meeting. The Chesterfield Mews Homeowners Association shall be notified by United States Mail no later than five (5) days in advance of the Tree Preservation Walk-Through meeting inviting them to the meeting to discuss the limits of clearing and grading. The Providence District Supervisor shall be notified of the name and contact information of the Applicant's representatives responsible for the site monitoring at the Tree Preservation Walk-Through.
28. Tree Preservation Fencing. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence is done per the root pruning guidelines contained in these proffers. Fencing shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets.

The Applicant shall install tree preservation fencing on the limits of clearing and grading line as depicted on the GDP. It is noted that the Applicant may conduct work between the tree preservation fencing and the western and southern lot lines in order to remove any existing nursery stock and gravel currently in that area resulting from the operation of the nursery on the Application Property. Any work conducted in this area shall be coordinated with UFMD. Methods of removal that are the least disruptive as possible shall be utilized for this work in order to protect offsite trees and may include limited use of a Bobcat. This work, the removal of the existing fence and the installation of a new board on board fence along the western and southern lot lines, as shown on the GDP, shall be the only disturbance permitted within this area. Once the proposed houses are constructed, all grading is complete, and the site is stabilized, the Applicant may remove the tree preservation fencing and re-sod this area.

All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Ten (10) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, and the Providence District Supervisor shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD, DPWES. At the discretion and the direction of the Providence District Supervisor, a representative of the Chesterfield Mews Homeowners Association shall be notified by United States Mail no later than five (5) days in advance of any clearing, grading or demolition activities. In this letter, any member of the Association shall be invited to be in attendance when the UFMD, DPWES and the Providence District Supervisor inspect the site to ensure that all tree protection devices have been correctly installed.

29. Tree Appraisal. The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees 10 inches in diameter or greater located on the Application Property that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the respective site plan(s). The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plan Appraisal published by the International Society of Arboriculture, subject to review and approval by UFMD.

At the time of the respective site plan approvals, the Applicant shall post a cash bond or a letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined in accordance with the paragraph above (the "Bonded Trees") that die or are dying due to unauthorized construction activities. The letter of credit or cash deposit shall be equal to 50% of the replacement value of the Bonded Trees. At any time prior to final bond release for the

improvements on the Application Property constructed adjacent to the respective tree save areas, should any Bonded Trees die, be removed, or are determined to be dying by the project arborist and/or UFMD due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement of the trees shall be determined by the Fairfax County Public Facilities Manual and by UFMD. In addition to this replacement obligation, the Applicant shall also make a payment equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized construction activity. This payment shall be determined based on the Trunk Formula Method and paid to a fund established by the County for furtherance of tree preservation objectives. Upon release of the bond for the improvements on the Application Property constructed adjacent to the respective tree save areas, any amount remaining in the tree bonds required by this proffer shall be returned/released to the Applicant.

30. Root Pruning. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these development conditions. Root pruning shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the site plan submission. Root pruning shall be accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:
  - Root pruning shall be done with a trencher or vibratory plow to a minimum depth of 18 inches.
  - Root pruning shall take place prior to any clearing and grading, or demolition of structures and in conjunction with the installation of all super silt fence being used as tree protection fence.
  - Root pruning shall be conducted with the supervision of a certified arborist.
  - An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.
  - Along the southern lot line, where the limits of clearing and grading are 5 feet from the southern lot line, root pruning shall occur 7 feet from the southern lot line. Along the southern and western lot lines where the limits of clearing and grading are 10 feet from the respective lot lines, root pruning shall occur 12 feet from the respective lot lines.
31. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as conditioned and as approved by the UFMD. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation development conditions, and UFMD approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD, DPWES and FCPA.
32. Stormwater Management Facilities and Best Management Practices. Unless modified, stormwater management shall be provided as generally depicted on the GDP and as

approved by DPWES. The requirements for maintaining non-County maintained SWM improvements shall be in a standard maintenance agreement between the County and the Applicant who is the land owner, its successor and assigns. This agreement shall be recorded in the County land records and run with the land. Should any deficiencies in the existing SWM or BMP facilities/improvements be identified by the Stormwater Management Maintenance Division during regular inspections, or when investigating a drainage complaint, then maintenance shall be performed in reasonable fashion and time in accordance with the recorded maintenance agreement. Should future County policy permit all or part of the SWM facilities on the Property to be eligible for County Maintenance, then the Applicant or the successor homeowner's association may request County maintenance for eligible facilities. After establishing the HOA pursuant to these proffers, the Applicant shall provide the HOA with written materials describing proper maintenance of the approved SWM and BMPs in accordance with the PFM and County guidelines.

33. Wells/Septic. Prior to land disturbance on the subject property, the Applicant shall coordinate with the Health Department regarding the closure and abandonment of the existing wells and septic tanks on the subject property. The Applicant shall obtain a letter from the Health Department stating the aforementioned wells and septic tanks were closed and abandoned in accordance with local and State regulations.
34. Phase I Environmental Site Assessment. The applicant shall complete a Phase I environmental site assessment of the Property if deemed necessary by DPWES. If deemed necessary by the Phase I environmental site assessment, the Applicant shall complete a Phase II environmental investigation. The Applicant shall provide copies of the Phase I environmental site assessment and Phase II environmental investigation to DPWES prior to final site plan approval. If contamination is found in ground water, surface water or soil on the Property, the Applicant shall take such corrective action as required by and in accordance with all applicable Federal, State and County requirements and as otherwise reasonably necessary for protection of human health in the redevelopment of the Property.
35. Geotechnical Study. Prior to site plan approval and in accordance with the provisions of the Public Facilities Manual, the Applicant shall submit a geotechnical study of the Property to DPWES for the review and approval. If needed to alleviate potential structural, grading and construction problems to the Property and the adjacent properties, the Applicant shall incorporate into its site plan and/or building design appropriate engineering practices as recommended by DPWES.

#### IV. CONTRIBUTIONS

36. Housing Trust Fund. At the time of the first building permit issuance, the Applicant shall contribute a sum equal to one-half of one percent (0.5%) of the projected sales price for each dwelling unit on the Property to the Fairfax County Housing Trust Fund, as determined by the Department of Housing and Community Development in consultation with the Applicant to assist the County in its goal to provide affordable dwellings. The

projected sales price shall be based upon the aggregate sales price of all of the units, as if those units were sold at the time of the issuance of the first building permit and is estimated through comparable sales of similar type units.

37. Recreation Contribution. At the issuance of the first RUP, the Applicant shall contribute the sum of \$38,399 to the Board of Supervisors for use at off-site recreational facilities on the south side of Route 50 intended to serve the future residents, as determined by the Providence District Supervisor in coordination with FCPA.
38. Providence District Tree Fund. At the issuance of the first RUP, the Applicant shall contribute \$2,000 to the Providence District Tree Fund.
39. Nottoway Nights. At the issuance of the first RUP, the Applicant shall contribute \$1,000 to the Nottoway Nights Concert Series.
40. Public Schools. A contribution of \$54,125 (5 students X \$10,825) shall be made to the Board of Supervisors for transfer to Fairfax County Public Schools (FCPS) and designated for capital improvements at the public schools serving the development. The contribution shall be made at the time of, or prior to, issuance of the first RUP. Following approval of this Application and prior to the Applicant's payment of the amount set forth in this Proffer, if Fairfax County should increase or decrease the ratio of students per unit or the amount of the contribution per student, the Applicant shall increase or decrease the amount of the contribution for that phase of development to reflect the then-current contribution. In addition, notification shall be given to FCPS when construction is anticipated to commence to assist FCPS by allowing for the timely projection of future students as a part of the Capital Improvement Program.
41. Escalation. All monetary contributions required by these proffers, with the exception of Proffer 36 relating to the Housing Trust Fund and Proffer 40 relating to the public school contribution, shall escalate on a yearly basis from the base year of 2015, and change effective each January 1 thereafter, based on the Consumer Price Index as published by the Bureau of Labor Statistics, the U.S. Department of Labor for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI"), as permitted by Virginia State Code Section 15.2-2303.3.

#### **Successors and Assigns**

These proffers shall bind and inure to the benefit of the Applicant and his/her successors and assigns.

#### **Counterparts**

These proffers may be executed in one or more counterparts, each of which, when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.

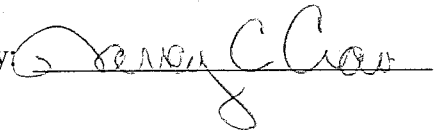
TITLE OWNERS AND APPLICANTS SIGNATURES TO FOLLOW ON THE NEXT PAGE:

Paul Craven, a/k/a C. Paul Craven, a/k/a Clifton Paul Craven, a/k/a  
Paul C. Craven,

By: 

Name \_\_\_\_\_  
Paul Craven, a/k/a C. Paul Craven, a/k/a Clifton  
Paul Craven, a/k/a Paul C. Craven, co-owner of 48-  
4((1))44 together with Nancy Craven, a/k/a Nancy  
C. Craven

Nancy Craven, a/k/a/ Nancy C. Craven

By: 

Name \_\_\_\_\_

Nancy Craven, a/k/a/ Nancy C. Craven, co-owner  
of 48-4((1))44 together with Paul Craven, a/k/a C.  
Paul Craven, a/k/a Clifton Paul Craven, a/k/a Paul  
C. Craven

Ausable, LLC  
BY: Michael B. Hummel, Manager  
Contract Purchaser of 48-4((1))44

Name:   
Michael B. Hummel